

# KIRBY McINERNEY & SQUIRE, LLP

TELEPHONE:(212) 371-6600

(212) 317-2300

FACSIMILE:(212) 751-2540

*830 Third Avenue  
New York City 10022*

---

IRVING MALCHMAN, OF COUNSEL

## VIA E-FILING

February 1, 2005

Clerk of the Court  
United States District Court for the District of Massachusetts  
Suite 2300  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way  
Boston, Massachusetts 02210

Re: *County of Suffolk v. Abbott Laboratories, Inc., et al.*  
(MDL. 1456)(E.D.N.Y. Case No. CV-030229)  
No. 01-CV-12257-PBS

Dear Sir or Madam:

Per this Court's Order entered June 17, 2004 enclosed for filing in the above-captioned matter please find the February 1, 2005 status report for Suffolk County.

Sincerely,

/s/ Aaron D. Hovan  
Aaron D. Hovan

Enclosures  
cc: All Parties

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION

THIS DOCUMENT RELATES TO:

*County of Suffolk v. Abbott Laboratories, Inc., et al.*,  
E.D.N.Y. Case No. CV-03-229

MDL. NO. 1456

Civil Action No. 01-CV-12257- PBS

Judge Patti Saris

**SUFFOLK COUNTY'S STATUS REPORT**

The undersigned counsel for Suffolk County hereby submits the attached status report to the Court in accordance with the Court's June 17<sup>th</sup> Procedural Order.

Date: February 1, 2005  
New York, New York

KIRBY McINERNEY & SQUIRE, LLP

By: /s/ Joanne M. Cicala  
Joanne M. Cicala  
Aaron D. Hovan

830 Third Avenue  
New York, New York 10022  
(212) 371-6600

COUNSEL FOR THE COUNTY OF SUFFOLK

**MDL 1456 Status Report**

**County of Suffolk v. Abbott Laboratories, Inc., et al. 03cv10643-PBS, E.D.N.Y.**

**Motion to Dismiss-Related**

- October 26, 2004- Court orders Suffolk County to "disclose within three weeks all documents upon which it relied in calculating the spreads, and provide, in writing, a more definite statement of its method for calculating damages pursuant to Federal Rule of Civil Procedure 12(e)."
- November 16, 2004- Suffolk County files "Suffolk Affidavit In Response to October 26, 2004 Order".
- November 19, 2004- GSK files Motion for Clarification of the Court's October 26, 2004, Ruling in the County of Suffolk Action.
- November 22, 2004- Suffolk County files response to GSK's Motion For Clarification.
- November 30, 2004- Defendants file responses to "Suffolk Affidavit In Response to October 26, 2004 Order".
- December 8, 2004- Suffolk County requests leave to file reply in further response to October 26, 2004 order.
- January 10, 2005- Court grants Motion for Leave to File Reply in Further Response to October 26, 2004 Order.

**Second Motion To Compel The Production of Discovery From The Schering-Pough Corporation**

- January 20, 2005- Suffolk County files Second Motion To Compel The Production of Discovery From The Schering-Pough Corporation.
- January 25, 2005- Schering files Opposition to County of Suffolk's Second Motion to Compel the Production of Discovery.
- January 27, 2005- Judge Marianne B. Bowler Denies Second Motion for Discovery without prejudice . Deadline for responses is set for February 28, 2005.

**Motion respecting coordinated discovery**

- Suffolk County's motion respecting coordinated discovery and the role of liaison counsel filed April 27, 2004.
- Response of liaison counsel to Suffolk County's motion filed May 11, 2004.
- Suffolk County's reply filed May 24, 2004.
- Plaintiff and Liaison counsels' Motion to file a sur-reply in opposition to Suffolk's reply and accompanying Sur-reply memorandum filed May 26, 2004.
- Memorandum of Bristol-Myers Squibb Company in response to the motion of County of Suffolk addressing the role of liaison counsel for all plaintiffs, filed May 28, 2004.
- Response of Liaison Counsel to Bristol-Myers Squibb Memorandum addressing the role

of liaison counsel filed May 28, 2004.

**Certificate of Service**

I certify that on February 1, 2005 a true and correct copy of the foregoing February 1, 2005 Status Report was served on all Counsel of Record by electronic service pursuant to Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties.

/s/ Aaron D. Hovan  
Aaron D. Hovan